

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RONALD BLUE WEST,
Plaintiff

v.

UNITED STATES OF AMERICA,
Defendant

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No. 3:16-cv-2460

(Judge Kane)

(Magistrate Judge Saporito)

ORDER

Before the Court in the above-captioned action is the August 23, 2017 Report and Recommendation of Magistrate Judge Saporito (Doc. No. 51), recommending dismissal of this case for lack of subject matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1). Plaintiff filed an objection to the Report and Recommendation on September 8, 2017 (Doc. No. 52), and an amendment to his objection on the same date (Doc. No. 53). Defendant filed a brief in opposition to Plaintiff's objection on September 21, 2017. (Doc. No. 54.)

In his objection, Plaintiff repeats information stated in his amended complaint, but does not challenge the basis for Magistrate Judge Saporito's conclusion that this Court lacks subject matter jurisdiction over Plaintiff's Federal Tort Claims Act ("FTCA"), claim in the absence of an allegation of physical injury. See 28 U.S.C. § 1346(b)(2) (providing that, under the FTCA, an inmate is precluded from bringing "a civil action against the United States . . . for mental or emotional injury suffered while in custody without a prior showing of physical injury").

ACCORDINGLY, on this 26th day of September 2017, upon independent review of the record and the applicable law, **IT IS ORDERED THAT:**

1. The Court **ADOPTS** the Report and Recommendation (Doc. No. 51), of Magistrate Judge Saporito;
2. Plaintiff's objections (Doc. Nos. 52, 53), are **OVERRULED**;
3. Plaintiff's amended complaint (Doc. No. 44-1), is **DISMISSED** pursuant to Federal Rule of Civil Procedure 12(b)(1); and
4. The Clerk of Court is directed to **CLOSE** this case.

s/ Yvette Kane
Yvette Kane, District Judge
United States District Court
Middle District of Pennsylvania